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TAGS: [UNSC](#) [PREL](#) [PHUM](#) [SU](#) [XA](#) [XW](#)
SUBJECT: SUDAN: TALKING POINTS FOR DECEMBER 4 BRIEFING BY
ICC PROSECUTOR MORENO-OCAMPO

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Summary and Action Request

¶1. (U) USUN is instructed to draw from the following talking points and questions in paragraph three for the December 4 Security Council Briefing by the International Criminal Court (ICC) Prosecutor Luis Moreno-Ocampo. The U.S. objective for this briefing is to: (1) emphasize that the Government of Sudan (GOS) continues to refuse to cooperate with the International Criminal Court in contravention of UNSCR 1593; and (2) urge the GoS to cooperate with the ICC.

Talking Points

¶2. (SBU) Begin Points:

Introduction

-- I would like to begin by thanking Prosecutor Moreno-Ocampo for his briefing related to Security Council resolution 1593 (2005). It is clear from this briefing that the Government of Sudan (GOS) has not fulfilled its obligation to cooperate with the International Criminal Court (ICC) under resolution 1593, which is a Chapter VII binding resolution, the importance of which was reiterated by the Council in our Presidential Statement of June 16, 2008.

Sudan,s Failure to Comply With UNSCR 1593

-- The United States believes that those responsible for the atrocities in Darfur should be held accountable, as actions in Darfur affect the stability of Sudan as a whole. Despite the creation of a Special Court for Darfur and numerous committees that were established in 2005 to pursue justice for Darfuri victims, ICC arrest warrants against Ahmad Harun and Ali Kushayb remain outstanding. We continue to call on the Government of Sudan to cooperate fully with the ICC as is required by UN Security Council resolution 1593 (2005).

Continued Violence and Undermining an Already Fragile
Humanitarian Situation Underscore Why the Council
Referred this Case to the ICC in the First Place

-- During the last six months, civilians continued to be casualties of conflict. The UN Panel of Experts confirmed that the Government of Sudan violated the ban on military flights over Darfur. Both the Prosecutor,s report and the Secretary-General,s report described Sudanese Armed Forces

and militia ground offensives supported by aerial bombardments in the Jebel Mara region and in North Darfur. The reports noted that government operations around Korma, Ain Siro, and Meilit all resulted in civilian casualties, additional civilian displacements and destruction of public infrastructure. The Government's recent actions are the very type of actions that resulted in this Council referring the conflict in Darfur to the ICC in the first place.

-- On top of this continuing violence, the Government of Sudan has contributed to the deterioration of the humanitarian situation in Darfur. We were able to temporarily narrow serious gaps in life-saving sectors created when the Government of Sudan expelled humanitarian non-governmental organizations on March 4 and 5. However, these efforts cannot necessarily be sustained long-term. UNAMID reports that the international non-governmental organization presence in Darfur has been reduced by fifty percent, and this has dramatically reduced monitoring and evaluation capabilities in Darfur, as well as the ability to provide assistance to those in need. The Council must be vigilant in holding the Government of Sudan responsible for meeting the full humanitarian needs of its population.

Cooperation of Other States Parties

-- Those responsible for these atrocities must be held accountable. We urge all States - including those not party

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to the Rome Statute - to refrain from providing political or financial support to the Sudanese suspects indicted by the ICC.

U.S. and the ICC

-- Though the United States itself is not party to the Rome Statutes, last week, the United States was pleased to participate for the first time as an observer to the Assembly of States Parties to the Rome Statute. This decision reflected the Obama Administration's commitment to engage the international community on issues that affect our foreign policy interests. Ending impunity for crimes against humanity, including crimes of the staggering scale committed in Darfur, ranks high among the administration's commitments, and for this reason, the United States will continue to be supportive of the International Criminal Court's prosecution of these cases to the extent consistent with United States domestic law.

Mbeki Report

-- On October 29, the African Union High-Level Panel on Darfur (AUPD), chaired by former President Thabo Mbeki of South Africa, made a number of recommendations to advance the issues of accountability and combating impunity, along with peace, healing and reconciliation. We welcome efforts to strengthen Sudan's national legal system in order to deal appropriately with those who have committed atrocities in Darfur. Efforts to strengthen Sudan's legal system will not achieve their aim unless they are backed by the political will to bring perpetrators to justice. While the Mbeki report's recommendations concerning a hybrid tribunal are worth further study, we believe that the ICC's prosecution of the key architects of the conflict in Darfur remains critical.

Conclusion

-- In conclusion, let me reiterate that we unequivocally support the pursuit of justice in holding accountable those who have committed atrocities in Darfur. We once again call

upon the Government of Sudan to fully implement resolution
[1593](#).

End points.
CLINTON